

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

Nickales McAlister

(Enter the full name of the plaintiff.)

**CIV 21 0696 HE**

v.

Case No. \_\_\_\_\_  
(Court Clerk will insert case number)

(1) Stephen County

(2) See Section IV

(3) \_\_\_\_\_

(Enter the full name of each defendant. Attach additional sheets as necessary.)

**FILED**

JUL 12 2021

CARMELITA REEDER SHINN, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY: 888, DEPUTY

**PRO SE PRISONER CIVIL RIGHTS COMPLAINT**

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, **regardless of how the court decides your case.**

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. *See* 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

### COMPLAINT

**I. Jurisdiction is asserted pursuant to:**

X 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

       *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

---

---

---

**II. State whether you are a:**

☐ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☒ Pretrial detainee

☐ Immigration detainee

☐ Civilly committed detainee

☐ Other (please explain) \_\_\_\_\_

**III. Previous Federal Civil Actions or Appeals**

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

**1. Prior Civil Action/Appeal No. 1**

**a. Parties to previous lawsuit:**

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

**b. Court and docket number:** \_\_\_\_\_

**c. Approximate date of filing:** \_\_\_\_\_

**d. Issues raised:** \_\_\_\_\_

**e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?):** \_\_\_\_\_

**f. Approximate date of disposition:** \_\_\_\_\_

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

#### IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: Nir Scales McAlistar

Address: 101 S. 11th Street, Duncan, OK 73533

Inmate No.: N/A

2. Defendant No. 1

Name and official position: See Attached

Place of employment and/or residence: \_\_\_\_\_

How is this person sued? ( ) official capacity, ( ) individual capacity, ( ) both

3. Defendant No. 2

Name and official position: \_\_\_\_\_

Place of employment and/or residence: \_\_\_\_\_

How is this person sued? ( ) official capacity, ( ) individual capacity, ( ) both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).



## Section IV: Parties

Nickales McAlister

v

\* All Sued in Official  
and Individual Capacity

1) Stephens County

A) Sheriff Wayne McKinney

101 S. 11th Street

Duncan, OK 73533

B) Javier Martinez (Jail Administrator)

101 S. 11th Street

Duncan, OK 73533

2) State of Oklahoma

A) Cortnie Seiss (ADA)

101 S. 11th Street

Duncan, OK 73533

B) Jason Hillis (DA)

101 S. 11th Street

Duncan, OK 73533

3) Turn-Key Health

A) Kacey - LNU

101 S. 11th Street

Duncan, OK 73533

B) Missy - LNU

101 S. 11th Street

Duncan, OK 73533

A



## Section IV: Parties

4) District Court

A) Judge Ken Graham (Judge)

101 S. 11th Street

Duncan, OR 97533

**V. Cause of Action**

Instructions

1. *Provide a short and plain statement of each claim.*
  - Describe the facts that are the basis for your claim.
  - You can generally only sue defendants who were directly involved in harming you. Describe how each defendant violated your rights, giving dates and places.
  - Explain how you were hurt and the extent of your injuries.
2. *You are not required to cite case law.*
  - Describe the constitutional or statutory rights you believe the defendant(s) violated.
  - At this stage in the proceedings, you do not need to cite or discuss any case law.
3. *You are not required to attach exhibits.*
  - If you do attach exhibits, you should refer to the exhibits in the statement of your claim and explain why you included them.
4. *Be aware of the requirement that you exhaust prison grievance procedures before filing your lawsuit.*
  - If the evidence shows that you did not fully comply with an available prison grievance process prior to filing this lawsuit, the court may dismiss the unexhausted claim(s) or grant judgment against you. See 42 U.S.C. § 1997e(a).
  - Every claim you raise must be exhausted in the appropriate manner.
5. *Be aware of any statute of limitations.*
  - If you are suing about events that happened in the past, your case may be subject to dismissal under the statute of limitations. For example, for many civil rights claims, an action must be brought within two years from the date when the plaintiff knew or had reason to know of the injury that is the basis for the claim.

6. *Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.*

- If a ruling in your favor “would necessarily imply the invalidity” of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. **Claim 1:**

- (1) List the right that you believe was violated:

See Attached

- (2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

NA



## Section V: Claims

- Claim 1: Medical Malpractice/Deliberate Indifference
- Defendants: Kasey-LNU, Missy-LNU, Javier Martinez, Wayne McKinney, Turn-Key Health, Stephens County, Ok
- Supporting Facts: I have Ulcerative Colitis. In July of 2019 I was prescribed Humira with a warning to never miss a dose or it could cause my body to reject the drug leading to a life time of symptomatic suffering. 25APR2021 I was arrested and came to Stephens County Jail. My family brought my Humira from home which was acquired through healthcare I am no longer eligible for due to confinement. Starting on 14MAY2021 I informed Nurses Kasey-LNU/Missy LNU that I would run out of Humira because it costs \$6,000 a month out of pocket. I notified Javier Martinez on 28MAY2021 and 05JUNE2021 in writing of the consequences of missed doses. He has not responded. The Nurses identified declared that Turn-Key won't supply Humira and have done nothing to mitigate or cure the Pending Health Dilemma. 16JUN2021 was my last dose and I am starting to experience symptoms of Ulcerative Colitis. This is a violation of my rights as a Pre-Trial Detainee under the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments. Stomach Pain, Weight Loss, Bloody Stool, Appetite Loss, Energy Deficiency are untenable while fighting criminal charges.
- Relief Requested: Kasey-LNU: \$25,000; Missy-LNU: \$25,000.00



## Section V: Claims

Turn-Key Health: \$250,000.00 AND Residual Health-Care/Pain and Suffering; Javier Martinez: \$50,000.00; Wayne McKinney \$100,000.00; Stephens County: \$1,000,000 and Residual costs Health Care/Pain and Suffering. Residuals constitute a supplemental pleading for adverse effects of Claim 1.

### Claim 2: Deliberate Indifference

Defendants: Ken Graham, Cortnie Seiss, Jason Hicks.

Supporting Facts: On 28JUN2021 I filed a Motion For Order in Criminal Case CF-2021-79 ask for the presiding Judge to grant an "OR Bond" or "Medical Bond." In the Motion I detailed the history of my disease Ulcerative Colitis and the medication cost and the last dose date of 16JUN2021. I moved for a fast solution to curtail any possible permanent negative affects (see attached). It is now 06JUL2021 and I am experiencing chest pains, bloody stool, stomach pains, loss of energy, lack of appetite. The Judge has a duty to protect my rights during criminal proceedings and has ignored my Motion. The DA/ADA Jason Hicks and Cortnie Seiss have an obligation to weigh criminal proceedings with the health and safety of defendants and have not responded to my Motion. This constitutes Deliberate Indifference and is a violation of my Civil Rights.

-Relief Requested: Ken Graham: \$500,000.00; (continued→)



## Section II: Claims

Jason Hicks: \$500,000.00; Cortnie Seiss: \$500,000.00  
State of Oklahoma: \$1,000,000.00



(3) List the supporting facts:

NA

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

NA

**2. Claim II:**

(1) List the right that you believe was violated:

NA

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

NA

(3) List the supporting facts:

NA

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

NA

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

## VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Nicholas McAister

Plaintiff's signature

07 JUL 2021

Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 8<sup>th</sup> day of July, 2021.

Nicholas McAister

Plaintiff's signature

07 JUL 2021

Date